

Message Text

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C O N F I D E N T I A L SANTIAGO 6273

E.O. 11652: GDS

TAGS: PINS, CI

SUBJECT: A GOVERNMENT VIEW OF HUMAN RIGHTS IMPLICATIONS OF
PRESIDENT'S ANNIVERSARY ADDRESS

REFS: SANTIAGO 6207, 6217, 6272

1. AS DEPT AWARE, WE HAVE TENDED TO REACT SCEPTICALLY TO GOC STATEMENTS LOOKING TOWARD RELAXATION OF ITS HUMAN RIGHTS PRACTICES, AS RESULT OF NUMBER OF PREVIOUS EXPERIENCES IN WHICH HARBINGERS OF CHANGE HAVE NOT BEEN FOLLOWED UP IN FACT. THUS, STUDYING PRESIDENT PINOCHET'S ANNOUNCEMENT THAT LEVEL OF STATE OF SIEGE IN CHILE WOULD BE REDUCED BY ONE DEGREE, WE HAVE CONCLUDED (SEPTTEL) THAT THIS WILL MAKE LITTLE DIFFERENCE IN GOVERNMENT'S INTERNAL SECURITY SYSTEM AS IT EXISTS TODAY.

2. TO CHECK OUT OUR OWN THINKING ON THIS SUBJECT, AMBASSADOR RAISED SUBJECT WITH MINISTER OF JUSTICE MIGUEL SCHWEITZER SEPT 15, ASKING THE MINISTER HOW MUCH DIFFERENCE HE THOUGHT NEW PROCEDURES COULD MAKE. SCHWEITZER SAID HE THOUGHT THE DIFFERENCE WOULD BE CONSIDERABLE. IT WAS TRUE THAT THE MOST SERIOUS CASES -- THOSE INVOLVING TERRORISM AND SABOTAGE -- WOULD CONTINUE TO BE JUDGED EXCLUSIVELY BY MILITARY TRIBUNALS. HOWEVER, HE EXPECTED THAT A LARGE MAJORITY
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OF FUTURE CASES WOULD INVOLVE LESS SERIOUS TRANSGRESSIONS.

ALL OF THESE WOULD BE SUBJECT TO REVIEW BY THE COURT MARTIAL (A BODY COMPOSED OF LEGALLY EXPERT CIVILIANS AND MILITARY) WITH RECOURSE TO THE SUPREME COURT.

3. FURTHER TO THIS SUBJECT, SCHWEITZER EXPRESSED OPINION THAT WE SHOULD NOT UNDERESTIMATE TWO OTHER DECISIONS ANNOUNCED IN PINOCHET'S SEPT 11 ADDRESS. FIRST, CREATING A COUNCIL OF STATE, INCLUDING CIVILIANS NOMINATED BY THE GOVERNMENT, WOULD PROVIDE AN INPUT FOR RESPONSIBLE CRITICISM OF FAILINGS OR ABUSES OF GOVERNMENT, TO A GREATER EXTENT THAN WAS NOW POSSIBLE. A SECOND DECISION, ENSURING ADOPTION OF THREE NEW CONSTITUTIONAL STATUTES BY MID-1976, WOULD PROVIDE OPPORTUNITY TO EXPAND LEGAL FOUNDATION OF PRESENT CHILEAN REGIME. THE NEW CONSTITUTIONAL ACTS WOULD, SCHWEITZER BELIEVED, BUILD IN PROTECTIVE MEASURES FOR INDIVIDUALS.

4. COMMENT: WE JUDGE FROM FOREGOING THAT ELEMENTS IN GOC ATTEMPTING TO MODERATE ITS POLICIES WILL DO THEIR BEST TO UTILIZE THESE INSTITUTIONAL DEVELOPMENTS AS EFFECTIVELY AS POSSIBLE. WE WILL SEEK TO FOLLOW AS BEST WE CAN THE FATE OF FUTURE DETAINEES UNDER STATE OF SIEGE REGULATIONS. CRITICAL QUESTIONS WILL BE HOW MANY ARE CHARGED WITH SERIOUS ACTS OF TERRORISM AND SABOTAGE, AND WITH WHAT JUSTIFICATION, AND HOW MANY OTHERS ARE HELD WITHOUT ANY CHARGES WHATEVER UNDER STATE OF SIEGE REGULATIONS. IN ADDITION, NOW THAT GOC HAS BEGUN TO RELEASE HIGH-LEVEL POLITICAL DETAINEES WITHOUT REQUIRING THEM TO GO INTO EXILE, WE WILL ALSO WATCH TO SEE WHETHER GOC WILL BE WILLING SIMILARLY TO RELEASE OTHERS IT NOW HOLDS, WITH PERMISSION TO REMAIN IN CHILE.
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